Public Law 97-362
97th Congress

An Act

To reduce the amount of LIFO recapture in the case of certain plans of liquidation adopted during 1982, to make adjustments in the net operating loss carryback and carryforward rules for the Federal National Mortgage Association, and for other purposes.

Oct. 25, 1982
[H.R. 4717]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Miscellaneous Revenue Act of 1982.

SECTION 1. SHORT TITLE; AMENDMENT OF 1954 CODE.

26 USC 1 note.

(a) SHORT TITLE.—This Act may be cited as the "Miscellaneous Revenue Act of 1982".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

26 USC 1 *et seq.*

TITLE I—TAX PROVISIONS

SEC. 101. REDUCTION OF LIFO RECAPTURE AMOUNT WITH RESPECT TO CERTAIN PLANS OF LIQUIDATION ADOPTED DURING 1982.

26 USC 336 and note, 337, 453.

Subsection (b) of section 403 of the Crude Oil Windfall Profit Tax Act of 1980 (relating to effective date for recognition of gain on certain dispositions of LIFO inventories) is amended by adding at the end thereof the following new paragraph:

26 USC 336 note.

"(4) PLANS OF LIQUIDATION ADOPTED DURING 1982.—

"(A) IN GENERAL.—If—

"(i) a corporation adopts a plan of liquidation during 1982, and

"(ii) such liquidation is completed before January 1, 1984,

then the LIFO recapture amount taken into account with respect to such liquidation under the amendments made by paragraphs (1) and (2) shall be reduced (but not below zero) by $1,000,000.

"(B) MORE THAN 1 PLAN OF LIQUIDATION.—If a corporation (or group of corporations treated as 1 corporation under subparagraph (C)) has more than 1 liquidation which qualifies under subparagraph (A), the dollar amount under such subparagraph shall apply to all such liquidations in the order in which the distributions, sales, and exchanges occur until such dollar amount is used up.

"(C) APPLICATION TO MEMBERS OF CONTROLLED GROUP.—

"(i) IN GENERAL.—For purposes of this paragraph, all corporations which are competent members of the same controlled group of corporations at any time after December 31, 1981, and before January 1, 1984, shall be treated as 1 corporation.

"(ii) CORPORATIONS MEMBERS OF MORE THAN 1 GROUP.—For purposes of this subparagraph, if (but for this clause) a corporation would be a component member of more than 1 controlled group of corporations during the period described in clause (i)—

"(I) if such corporation is a component member of a controlled group on October 1, 1982, such corporation shall be treated only as a component member of such group, or

"(II) if subclause (I) does not apply, such corporation shall be treated as a component member of only the first such controlled group.

"(iii) CONTROLLED GROUP OF CORPORATIONS DEFINED.—For purposes of this subparagraph, the term 'controlled group of corporations' has the meaning given such term by section 1563(a) of the Internal Revenue Code of 1954, except that— 26 USC 1563

"(I) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1) of such Code, and

"(II) the determination shall be made without regard to subsections (a)(4), (b), and (e)(3)(C) of section 1563 of such Code.

"(D) TREATMENT OF DEEMED LIQUIDATIONS UNDER SECTION 338.—If an election under section 338 of the Internal Revenue Code of 1954 is made during 1982 with respect to any qualified stock purchase (within the meaning of such section 338), the requirements of clauses (i) and (ii) of subparagraph (A) shall be treated as met with respect to the target corporation for purposes of applying section 338 of such Code. For purposes of this paragraph, an election to which subparagraph (A) applies by reason of this subparagraph shall be treated as a sale and a liquidation." Ante, p. 483

SEC. 102. ADJUSTMENTS TO NET OPERATING LOSS CARRYBACK AND CARRYFORWARD RULES FOR FEDERAL NATIONAL MORTGAGE ASSOCIATION.

(a) 10-YEAR CARRYBACK AND 5-YEAR CARRYFORWARD FOR LOSSES OTHER THAN MORTGAGE DISPOSITION LOSSES.—Paragraph (1) of section 172(b) (relating to net operating loss carrybacks and carryovers) is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph: 26 USC 172

"(H) In the case of a net operating loss of the Federal National Mortgage Association for any taxable year beginning after December 31, 1981—

"(i) such loss, to the extent it exceeds the FNMA mortgage disposition loss (within the meaning of subsection (j)), shall be—

"(I) a net operating loss carryback to each of the 10 taxable years preceding the taxable year of the loss, and

"(II) a net operating loss carryover to each of the 5 taxable years following the taxable year of the loss, and

"(ii) the FNMA mortgage disposition loss shall be—

"(I) a net operating loss carryback to each of the 3 taxable years preceding the taxable year of the loss, and

"(II) a net operating loss carryover to each of the 15 taxable years following the taxable year of the loss."

(b) RULES RELATING TO FNMA MORTGAGE DISPOSITION LOSS.—Section 172 is amended by redesignating subsections (i) and (j) as subsections (j) and (k), respectively, and by inserting after subsection (h) the following new subsection:

26 USC 172.

"(i) RULES RELATING TO FNMA MORTGAGE DISPOSITION LOSS.—

"(1) FNMA MORTGAGE DISPOSITION LOSS DEFINED.—

Ante, p. 1727.

"(A) IN GENERAL.—For purposes of subsection (b)(1)(H) and this subsection, the term 'FNMA mortgage disposition loss' means for any taxable year the excess (if any) of—

"(i) the losses for such year from the sale or exchange of mortgages, securities, and other evidences of indebtedness, over

"(ii) the gains for such year from the sale or exchange of such assets.

"(B) FNMA MORTGAGE DISPOSITION LOSS CANNOT EXCEED THE NET OPERATING LOSS FOR THE YEAR.—The amount of the FNMA mortgage disposition loss for any taxable year shall not be greater than the net operating loss for such year.

"(C) FORECLOSURE TRANSACTIONS NOT INCLUDED.—In applying subparagraph (A), any gain or loss which is attributable to a mortgage foreclosure shall not be taken into account.

"(2) COORDINATION WITH SUBSECTION (b)(2).—In applying paragraph (2) of subsection (b), a FNMA mortgage disposition loss shall be treated in a manner similar to the manner in which a foreign expropriation loss is treated."

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 172(b)(1) is amended by striking out "(H), and (I)" and inserting in lieu thereof "(H), (I), and (J)".

(2) Subparagraph (B) of section 172(b)(1) is amended by striking out "and (I)" in the second sentence and inserting in lieu thereof "(H), and (J)".

(3) Subparagraph (I) of section 172(b)(1), as redesignated by subsection (a), is amended by striking out "subsection (i)" and inserting in lieu thereof "subsection (j)".

(4) Paragraph (3) of section 172(j), as redesignated by subsection (b), is amended by striking out "subsection (b)(1)(H)" each place it appears and inserting in lieu thereof "subsection (b)(1)(I)".

26 USC 172 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to net operating losses for taxable years beginning after December 31, 1981.

SEC. 103. ROLLOVER OF GAIN ON CERTAIN SALES UNDER FCC ORDER WHERE NEWSPAPERS ARE BOUGHT.

If—

(1) a corporation was ordered by the Federal Communications Commission in January 1975 to divest itself of its newspaper operations or its broadcasting operations,

(2) after the conclusion of the appellate process, the order was again issued in October 1979,

(3) the corporation sold its broadcasting operations before 1982, and

(4) on October 15, 1981, the corporation acquired 100 percent of the stock of a publishing company,

then the second sentence of section 1071(a) of the Internal Revenue Code of 1954 shall be applied with respect to sales and exchanges by such corporation before January 1, 1982, which are related to such order as if such second sentence treated stock of any corporation the principal business of which is operating newspapers and related printing operations in the same manner as stock of a corporation operating a radio broadcasting station. 26 USC 1071.

SEC. 104. TREATMENT OF CERTAIN SHALE OIL PROPERTY AS ENERGY PROPERTY.

(a) IN GENERAL.—Paragraph (7) of section 48(l) is amended by striking out "but does not" and all that follows and inserting in lieu thereof "; except that such term does not include equipment for hydrogenation, refining, or other process subsequent to retorting other than hydrogenation or other process which is applied in the vicinity of the property from which the shale was extracted and which is applied to bring the shale oil to a grade and quality suitable for transportation to and processing in a refinery." 26 USC 48.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to periods beginning after December 31, 1980, and before January 1, 1983, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954. 26 USC 48 note.

SEC. 105. ANNUITIES FOR SURVIVORS OF TAX COURT JUDGES.

(a) COMPUTATION OF ANNUITIES.—Subsection (m) of section 7448 (relating to computation of annuities) is amended— 26 USC 7448.

(1) by striking out "5 consecutive years" and inserting in lieu thereof "3 consecutive years", and

(2) by striking out "37½" and inserting in lieu thereof "40".

(b) COST-OF-LIVING ADJUSTMENTS.—Section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended by redesignating subsection (s) as subsection (t), and by inserting after subsection (r) the following new subsection:

"(s) INCREASES ATTRIBUTABLE TO INCREASED PAY.—Whenever the salary of a judge under section 7443(c) is increased, each annuity payable from the survivors annuity fund which is based, in whole or in part, upon a deceased judge having rendered some portion of his or her final 18 months of service as a judge of the Tax Court, shall also be increased. The amount of the increase in such an annuity shall be determined by multiplying the amount of the annuity, on the date on which the increase in salary becomes effective, by 3 percent for each full 5 percent by which such salary has been increased."

(c) CATCHUP FOR SURVIVORS ANNUITIES IN PAY STATUS ON DATE OF ENACTMENT.—If an annuity payable under section 7448(h) of the Internal Revenue Code of 1954 (relating to entitlement to annuity) to the surviving spouse of a judge of the United States Tax Court is being paid on the date of the enactment of this Act, then the amount of that annuity shall be adjusted, as of the first day of the first month beginning more than 30 days after such date, to reflect the amount of the annuity which would have been payable if the 26 USC 7448 note.

amendment made by subsection (a) applied with respect to increases in the salary of a judge under section 7443(c) of such Code taking effect after December 31, 1963.

26 USC 7443.

(d) EFFECTIVE DATE.—

26 USC 7448 note.

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to annuities payable with respect to judges dying after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendment made by subsection (b) of this section shall apply with respect to increases in the salary of judges of the United States Tax Court taking effect after the date of the enactment of this Act.

SEC. 106. TAX COURT PROCEDURES.

(a) DISPUTES INVOLVING CERTAIN EXCISE TAXES.—

26 USC 7463.

(1) IN GENERAL.—Subsection (a) of section 7463 (relating to disputes involving $5,000 or less) is amended—

(A) by striking out "or" at the end of paragraph (2),

(B) by adding "or" at the end of paragraph (3), and

(C) by inserting after paragraph (3) the following new paragraph:

"(4) $5,000 for any 1 taxable period (or, if there is no taxable period, taxable event) in the case of any tax imposed by subtitle D which is described in section 6212(a) (relating to a notice of deficiency),".

26 USC 7463 note.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to petitions filed after the date of the enactment of this Act.

(b) ORAL FINDINGS OF FACT OR OPINIONS.—Subsection (b) of section 7459 (relating to inclusion of findings of fact or opinions in report) is amended by adding at the end thereof the following new sentence: "Subject to such conditions as the Tax Court may by rule provide, the requirements of this subsection and of section 7460 are met if findings of fact or opinion are stated orally and recorded in the transcript of the proceedings."

26 USC 7459.

(c) HEARINGS AND OPINIONS BY COMMISSIONERS IN CASES INVOLVING DEFICIENCIES OF $5,000 OR LESS.—

26 USC 7456.

(1) Section 7456 (relating to administration of oaths and procurement of testimony) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) PROCEEDINGS WHICH MAY BE ASSIGNED TO COMMISSIONERS.—The chief judge may assign—

"(1) any declaratory judgment proceeding,

"(2) any proceeding under section 7463, and

"(3) any other proceeding where neither the amount of the deficiency placed in dispute (within the meaning of section 7463) nor the amount of any claimed overpayment exceeds $5,000,

to be heard by the commissioners of the court, and the court may authorize a commissioner to make the decision of the court with respect to any such proceeding, subject to such conditions and review as the court may by rule provide."

(2) Subsection (c) of section 7456 is amended by striking out the last sentence.

(d) DESIGNATION OF JUDGES WHO ARE RECEIVING RETIRED PAY.—

26 USC 7447.

Subsection (b) of section 7447 (relating to retirement) is amended by adding at the end thereof the following sentence: "Any judge who retires shall be designated 'senior judge'."

SEC. 107. WITHHOLDING STATEMENTS FOR TERMINATED EMPLOYEES.

(a) IN GENERAL.—Subsection (a) of section 6051 (relating to receipts for employees) is amended by striking out "on the day on which the last payment of remuneration is made" and inserting in lieu thereof "within 30 days after the date of receipt of a written request from the employee if such 30-day period ends before January 31". 26 USC 6051.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to employees whose employment is terminated after the date of the enactment of this Act. 26 USC 6051 note.

SEC. 108. WITHHOLDING OF STATE INCOME TAX FROM THE WAGES OF CERTAIN SEAMEN.

Section 12 of the Act of March 4, 1915 (38 Stat. 1169; 46 U.S.C. 601), is amended by inserting before the period at the end of the second proviso the following: ", but nothing in this section shall prohibit any such withholding of the wages of any seaman who is employed in the coastwise trade between ports in the same State if such withholding is pursuant to a voluntary agreement between such seaman and his employer".

SEC. 109. WAGERING PERMITTED UNDER STATE LAW.

(a) TAX ON WAGERS.—Subsection (a) of section 4401 (relating to wagers) is amended to read as follows: 26 USC 4401.

"(a) WAGERS.—

"(1) STATE AUTHORIZED WAGERS.—There shall be imposed on any wager authorized under the law of the State in which accepted an excise tax equal to 0.25 percent of the amount of such wager.

"(2) UNAUTHORIZED WAGERS.—There shall be imposed on any wager not described in paragraph (1) an excise tax equal to 2 percent of the amount of such wager."

(b) OCCUPATIONAL TAX.—Section 4411 (relating to imposition of tax) is amended to read as follows: 26 USC 4411.

"SEC. 4411. IMPOSITION OF TAX.

"(a) IN GENERAL.—There shall be imposed a special tax of $500 per year to be paid by each person who is liable for the tax imposed under section 4401 or who is engaged in receiving wagers for or on behalf of any person so liable.

"(b) AUTHORIZED PERSONS.—Subsection (a) shall be applied by substituting '$50' for '$500' in the case of—

"(1) any person whose liability for tax under section 4401 is determined only under paragraph (1) of section 4401(a), and

"(2) any person who is engaged in receiving wagers only for or on behalf of persons described in paragraph (1)."

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall take effect on January 1, 1983. 26 USC 4401 note.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall take effect on July 1, 1983. 26 USC 4411 note.

TITLE II—OTHER PROVISIONS

SEC. 201. UNEMPLOYMENT BENEFITS PAID TO EX-SERVICE MEMBERS.

(a) ELIGIBILITY REQUIREMENTS.—Paragraph (1) of section 8521(a) of title 5, United States Code, is amended to read as follows:

"(1) 'Federal service' means active service (not including active duty in a reserve status unless for a continuous period of 180 days or more) in the armed forces or the Commissioned Corps of the National Oceanic and Atmospheric Administration if with respect to that service—

"(A) the individual was discharged or released under honorable conditions (and, if an officer, did not resign for the good of the service); and

"(B)(i) the individual was discharged or released after completing his first full term of active service which the individual initially agreed to serve, or

"(ii) the individual was discharged or released before completing such term of active service—

"(I) for the convenience of the Government under an early release program,

"(II) because of medical disqualification, pregnancy, parenthood, or any service-incurred injury or disability,

"(III) because of hardship, or

"(IV) because of personality disorders or inaptitude but only if the service was continuous for 365 days or more;".

(b) PERIOD FOR WHICH BENEFITS PAYABLE.—Section 8521 of such title 5 is amended by adding at the end thereof the following new subsection:

"(c)(1) An individual shall not be entitled to compensation under this subchapter for any week before the fifth week beginning after the week in which the individual was discharged or released.

"(2) The aggregate amount of compensation payable on the basis of Federal service (as defined in subsection (a)) to any individual with respect to any benefit year shall not exceed 13 times the individual's weekly benefit amount for total unemployment."

5 USC 8521 note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to terminations of service on or after July 1, 1981, but only for purposes of determining eligibility for benefits for weeks of unemployment beginning after the date of the enactment of this Act.

(2) TRANSITIONAL RULE.—The amendments made by this section shall not apply to the extent that such amendments would (but for this paragraph) reduce the amount of compensation payable in the case of benefit years established before the date of the enactment of this Act.

SEC. 202. COMPENSATION PAID TO EX-SERVICE MEMBERS CHARGED TO DEPARTMENT OF DEFENSE.

(a) GENERAL RULE.—

(1) Subsections (b) and (c)(1) of section 8509 of title 5, United States Code, are each amended by striking out "subchapter" each place it appears and inserting in lieu thereof "chapter".

(2) Section 8509 of such title 5 is amended by adding at the end thereof the following new subsection:

"(h) For purposes of this section, the term 'Federal service' includes Federal service as defined in section 8521(a)." *Ante*, p. 1732.

(b) EFFECTIVE DATE.— 5 USC 8509 note.

(1) IN GENERAL.—The amendments made by subsection (a) shall take effect on October 1, 1983.

(2) TREATMENT OF PREVIOUSLY APPROPRIATED FUNDS.—All funds appropriated which are available (on October 1, 1983) for the making of payments to States under chapter 85 of title 5, United States Code, on the basis of Federal service (as defined in section 8521(a) of such title 5) or for the making of payments under such chapter on the basis of such service in States which do not have in effect an agreement under such chapter, shall be transferred on such date to the Federal Employees Compensation Account established by section 909 of the Social Security Act. On and after such date, all payments described in the preceding sentence shall be made from such account as provided by section 8509 of such title 5. 5 USC 8501 *et seq.* 42 USC 1109.

SEC. 203. EXCLUSION OF CERTAIN SERVICES FROM THE FEDERAL UNEMPLOYMENT TAX ACT.

Subsection (b) of section 822 of the Economic Recovery Tax Act of 1981 is amended by striking out "during 1981" and inserting in lieu thereof "after December 31, 1980, and before January 1, 1983". 26 USC 3306 note.

SEC. 204. ELIGIBILITY REQUIREMENTS FOR TRADE ADJUSTMENT ASSISTANCE.

Section 2514(a)(2)(A) of the Omnibus Budget Reconciliation Act of 1981 (95 Stat. 889) (relating to the effective date of amendments relating to group eligibility requirements for adjustment assistance for workers under the Trade Act of 1974) is amended by striking out "the 180th day after the date of the enactment of this Act" and inserting in lieu thereof "October 1, 1983". 19 USC 2291 note. 19 USC 2101.

Approved October 25, 1982.

LEGISLATIVE HISTORY—H.R. 4717:

HOUSE REPORTS: No. 97-405 (Comm. on Ways and Means) and No. 97-929 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 127 (1981): Dec. 15, considered and passed House.
Dec. 16, considered and passed Senate, amended.

Vol. 128 (1982): Mar. 16, House agreed to Senate amendment with amendment.
Oct. 1, House and Senate agreed to conference report.